

e-Bugle

Garrett Bugle Internet Edition

Volume 56

February 2009

No. 2



Calendar

Fri., Jan. 23	Film Society, Town Hall, 7 pm; <i>The Hustler</i>	Sat., Feb. 7	GIVES collection, Penn Place, 9 am–1 pm (see p 5)
Sat., Jan. 24	Monthly Farmer's Market, Penn Place, 9 am–1 pm	Sun., Feb. 8	Town History Presentation, Town Hall, 3 to 5 pm (see p 6)
Wed., Jan. 28	Citizens Assoc. Meeting, Town Hall, 8 pm; setback ordinance/ referendum discussion (see p 4)	Mon., Feb. 9	Town Council Meeting, Town Hall, 8 pm
Thurs., Jan 29	Jam Session, Town Hall, 8 pm	Tues., Feb. 10	Lunch Bunch, Town Hall, 12:30 pm; <i>Bugle</i> deadline, 4 pm
Sat., Jan. 31	Town Dinner, Town Hall; 6 pm nibbles, 6:30 supper	Wed., Feb. 11	Seferlis lecture, Town Hall, 8 pm (see p 6)
Mon., Feb. 2	Monthly yard waste collection; White Flint sector meeting, Town Hall, 8 pm, sponsored by GP Estates	Fri., Feb. 13	Film Society, Town Hall, film at 8 pm, <i>Sweet Land</i> (see p 7)
Thurs., Feb. 5	Jam Session, Town Hall, 8 pm	Thurs., Feb. 19	Jam Session, Town Hall, 8 pm
		Wed., Feb. 25	Citizens Assoc. Meeting, Town Hall, 8 pm (topic TBA)

Town Council Meeting

The January 12 Council meeting was one more in a series of meetings that have been dominated by discussions of land use policy and the lawsuit brought by the Martins against the town. As has been characteristic of recent Council meetings, many strongly held opinions were expressed, and tempers occasionally flared.

The evening began with several presentations from citizens. Tara Flynn, representing the Garrett Part Nursery School, reported that the draft proposal for a land swap with Park and Plan-

ning should be prepared by the end of January. The swap would give Garrett Park the land on which the Community Center/Nursery School now stands, while Park and Planning would get the lot next to Penn Place (containing the basketball court) as an extension of Waverly Park. In a November meeting with Park and Planning, Garrett Park was assured that there would be no change in the use of the parcel next to Penn Place, nor would there be restrictions on the town's ability to use the property for Fourth of July and other events.

(continued next page)

Garrett Park Citizens Association
Garrett Park, Maryland 20896-0456

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(continued from previous page)

Mike Henley informed the Council of complications with the demolition and rebuilding of his fire-damaged house because of the fact that it sits on parts of three lots that have never been consolidated. The Council asked for more information and promised to work with the family to try to expedite the demolition and replatting process.

The discussion then turned to the issue of Judge Mary Beth McCormick's recent ruling on the Martins' lawsuit, whether the town should appeal that ruling, and how all this relates to the as-yet-unscheduled referendum on the lot occupancy ordinance passed in October. On January 9, the judge ruled that the town's 1992 combined setback ordinance overreached the town's legal authority at that time and was, therefore, not enforceable. She stayed her order until February 5 to allow the town to appeal, if it should choose to do so.

The Mayor was asked about the cost of the lawsuit to date. He responded that the cost was \$113,575 through the beginning of December. A number of citizens suggested that too much money has already been spent on the lawsuit and that additional town funds should not be spent on an appeal. The Mayor replied that the Council is painfully aware of the large costs. That will weigh heavily in their decision about an appeal, but legal issues and public policy considerations must also be part of the equation. The town had yet to meet with its attorneys to consider all the ramifications.

There was substantial discussion of the need for, and timing of, the referendum on the lot occupancy ordinance enacted by the Council in October. Some who oppose the new ordinance preferred to see the referendum put off—it must be held by May—allowing time for vetting its ramifications. They did not see a problem with Garrett Park lacking its own ordinance, because the County Overlay Zone would act as a backup. In response to concerns that the October ordinance represents a change in town policy, Councilmember Mandel pointed out that the intent of the Council in passing the ordinance was to restate the 1992 ordinance in a legally acceptable fashion so that the town would maintain the status quo while it thrashed out future policy through the Land Use Task Force. Some favoring the October ordinance characterized the issue as "local control" verses "county control," and reminded the audience that Garrett Park has a long history of handling issues at the municipal level.

All these topics will be fodder for the informational meetings to be held by the Citizens Association. Representatives of the Citizens Association asked to have two meetings on the proposed referendum, one on January 25 and the other sometime in February. While Councilmember Hans Wegner initially moved to hold the referendum on February 2, he withdrew the motion, and the Council delayed a decision on a referendum date until its next meeting. This means that the Council

will not have the benefit of the results of the referendum before it makes a decision on whether to appeal Judge McCormick's ruling.

The Council adopted a "Charge for the Garrett Park Land Use Task Force." The document includes a list of goals for the Task Force and issues to be addressed. A list of 22 volunteers was accepted as the membership of the Task Force; Gene Brantly is the chair. The purpose of the group is to look at all Garrett Park land use practices in light of changes in the town in the last 17 years, and to consider what the town might want to do with the expanded authority given to down-county municipalities by the state in 2006.

Finally, the Council unanimously adopted an amendment to the fiscal year 2009 budget. In response to a citizen's question, Administrator Pratt projected that the full impact of the new lower property assessments that residents have recently received will not hit the town until 2011. The drop in income tax revenues is already being felt. The Mayor explained that the town has always budgeted conservatively and will need to be even more cautious in the future.

The Council then recessed and reconvened in an executive session to consider matters of personnel and litigation.

Nancy Schwartz

Art at Penn Place

From January 18, the Penn Place Gallery is featuring the work of photographer Murray J. Gould. The majority of his photos are of "fleeting moments in the lives of the subjects." Some of the photos were shot in Krakow, Poland, and include some interesting accompanying notes. All photos were shot with a Nikon D100 digital camera and were printed on archival paper, roughly 12 x 18 inches. Gould's photographs will be on display until February 21.

Also of note is an exhibition of watercolor paintings by members of the Potomac Valley Watercolor Society at the Strathmore Mansion. This exhibition began on January 6 and will continue until February 21.

The *Garrett Bugle* is a publication of the Citizens Association of Garrett Park, published 10 times a year. Publication of the *Bugle* is supported by member dues. All residents of Garrett Park are members of the Citizens Association. Yearly dues (\$20 per family or \$10 per individual per address) can be sent to Citizens Association, Box 456, Garrett Park, MD 20896.

Citizens Association Officers:
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Out-of-town subscriptions cost \$15 (first class) or \$13 (bulk mail). Letters to the editor can be submitted by mail or hand to *Bugle* staff or by e-mail through the town Web site: www.garrettpark-md.gov/submitBugleArticle.php. The editor reserves the right to edit submissions for length and clarity. Unsigned letters will not be printed.

Town Administrator Notes

Important: Homestead Tax Credit Forms. Residents of Garrett Park have recently received their new property tax assessments for 2009. Please note that *you must fill out an application for the homestead tax credit to continue to receive this credit* (see story, this page). Please call the Town Office if you think we can help.

Leaf collection has finished for the year. Chances are you have a few leaves left over. You can either pile them up in a corner of your yard for composting (the Town Office has composting bins available for free—stop by and pick one up, if you like), or bag the leaves for the yard waste pickup the first Monday in February (February 4). Please use the paper yard waste bags. If you missed the scheduled Christmas tree pickup, just put your tree out, and we will take it away.

Snow has not yet fallen in any significant amount. This is very good for our budget, but unlikely to last. So please remember that it is especially important to try to park off the streets when snow is expected so that we can clear the streets curb to curb whenever possible. This will allow for more space to park after the streets are plowed. If you have a special need for your driveway to be open—medical supplies, caregiver services, etc.—please call the office and let us know, so that we can see that your driveway is among the first to have the plowed snow pushed back.

FY 2010 budget development has begun. If you have questions or would like more information, please call the office. If you have suggestions for next year’s budget, you should contact members of the Town Council or the Mayor.

I’d like to thank the many residents who generously gave tips to the Montgomery County Sanitation employees who take away our trash, recyclables, and yard waste. A fine year-end gift was made to each of the four men, and letters of acknowledgement will be sent out to all who gave before the end of January.

Best wishes for the New Year from all of us who work for you as town employees—we enjoy working for you and do our best to provide you with as high a level of service as possible. Suggestions as to how we may do this better are always welcome!

Finally, in these winter months, it is often hard for some of the town’s residents to get out. Please try to be particularly alert for a friend or neighbor who might need a little extra support this time of year. If there is any way you feel that we here at the office might be able to help out, please call or drop by.

Ted Pratt, Garrett-park@comcast.net,
301-933-7488

Visit Garrett Park’s Web site:
www.garrettpark-md.gov

Important Tax Form

After receiving new property tax assessments, everyone was so overjoyed that the assessments went down that they may not have noticed the very important forms enclosed. These forms need to be submitted right away. If you do not submit yours, you will lose the Homestead Tax Credit on your 2009 property tax bill. This is the first time we have ever had to apply for this credit. In the past it was automatically included on our property tax bills. The tax savings can be several thousand dollars.

You may return the form by mail, but you are encouraged to submit the application electronically to the State Department of Assessment and Taxation web site at www.dat.state.md.us. If you have questions, you may consult the web site or call the Montgomery County Office of SDAT at 240-314-4510. You may also consult the Town Office.

GPES

Can anyone volunteer to help shelve books in the Media Center one day a week? The library is in dire need of some manpower. Call the school (301-929-2170) and leave a message for Jane Bell if you are willing. Also, Principal Chang-Baxter wonders if there are any community members willing to volunteer to tutor students during lunch or after school in the “homework club.” Give her a call if you can.

The winter concert was a huge success, and even though a surprise half-day was called because of the water main break on River Road, a makeshift sing-along of holiday music was held while the students waited for their buses to come and take them home. The third graders are practicing hard for a recorder concert, the musical theatre club is gearing up for a production in March, and the string and band students are getting ready for an inter-school concert at Tilden. Music is alive and well at GPES.

Remember to send your used toner cartridges (any size) and “Box-Tops for Education” to the school office. We get money for the return of the cartridges.

Mary Moyer



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Citizens Association News

The next Citizens Association meeting will be held on January 28 at 8 pm in the Town Hall. We are hosting an open dialogue for the town to express concerns and opinions on (1) Garrett Park's pending referendum on our setback ordinance; (2) the town's decision on whether or not to pursue an appeal of the recent lawsuit; and (3) the merits of Garrett Park maintaining its own rules on setbacks or following Montgomery County's ordinances. Please plan to attend.

Upcoming Events. The Town Dinner is set for Saturday, January 31. The theme this year is “Neighbors.” Please join us to share fun times and funny stories about your neighbors, past and present, and to have a say in who is elected to the next Citizens Association board. We need more residents to become involved, so if you are interested in joining the board or in helping out with the Citizens Association, please call Chris Strong (even if you can’t make it to the dinner).

People will be admitted at 6 pm, and we will sit down at 6:30. As always, this is a pot luck supper. Along with your own serving utensils, you are asked to bring one of the following: appetizers, salad and breads, main dish, or dessert (enough for 8 to 10 people). A fee of \$5 will be collected at the door to help to cover the cost of decorations, drinks (wine and water will be provided), and paper goods and you can also pay your Citizens Association dues at the same time (\$10 for individuals and \$20 per family).

Since space is limited, please call or e-mail your reservation and what dish you will contribute to Mario Grande as soon as possible. Please be sure to state and spell your name, the number of people attending, and the dish you will contribute. If you would be willing to help in the decoration of the Town Hall that day, also let us know.

Citizens Association Annual Dues. The Citizens Association 2009 annual dues are being collected. The annual dues are \$10 for individuals and \$20 per family. These dues cover the cost of printing the *Bugle* and costs associated with putting on all Citizens Association events (Town Dinner, July 4, Pooch Parade, Newcomers' Reception, Halloween,

Citizens Association Income Statement for 2008

Income:	
GPCA dues	\$3,565
<i>Bugle</i>	
Subscriptions & green banner donations	\$798
Advertising	\$970
Town of Garrett Park subsidy	\$950
<i>Bugle subtotal</i>	\$2,718
Events (food sales at events, donation at Town Dinner)	\$2,077
Total income	\$8,360
Expenses:	
Events	\$3,487
<i>Bugle</i> printing and mailing	\$5,999
Total expenses	\$9,486
Net income (loss)	(\$1,126)

and Luminaria). All *Bugle* editing and distribution as well as effort put into the production of town events, are done strictly on a volunteer basis.

We depend on your dues to pay for some of the things that make Garrett Park a fun place to live. Please note that expenses exceeded income in 2008 (see table) and are expected to increase, since costs generally are going up. Please submit dues at the Town Dinner or by mailing them to the Citizens Association at Box 456. An envelope is included in this edition of the *Bugle* for your convenience. See also the survey box below.

Garrett Park Listserv: Tap into our neighborhood resources and stay informed with the Garrett Park neighborhood listserv, an electronic forum for neighbors to share information about town concerns, safety issues, upcoming events, and recommended services (for example, contractors, lawn care, doctors, and baby sitters.) The listserv will not be used for unsolicited marketing, and you can unsubscribe at any time. To join, e-mail Todd Harris or sign in at groups.yahoo.com/group/GarrettParkneighbors/join.

Comments? If you have questions or comments for the Citizens Association, please send a note to P.O. Box 456 or e-mail either Matt Stavish or Chris Strong.

Survey

To participate in the survey below, please put this completed form in the 2009 Citizens Association dues envelope included in this *Bugle*.

1. Should Garrett Park appeal the recent decision on the lawsuit and spend more town funds? ☐ Yes ☐ No
2. If there is no appeal and the Martins get full approval for their porch, which of the following would you favor in the future?
 - ☐ A. Garrett Park should have its own rules governing homeowner land usage and setbacks (the rules that are in place now).
 - ☐ B. Garrett Park should adhere to Montgomery County's overlay zoning for Garrett Park (with 20-percent lot coverage) until the new task force makes its recommendations to the town regarding how zoning should be governed in Garrett Park.
 - ☐ C. I don't have all the information I need to answer this question. I need to know the following:

Local Disposal of Batteries, etc.

Need to get rid of some rechargeable batteries or used compact fluorescent bulbs? You can recycle them at My Organic Market. Drop these off at MOM's Rockville at 11711 B Parklawn Drive (off Nicholson Lane), 301-816-4944. Fluorescent bulbs and some batteries contain acid, heavy metals, or mercury. They are "hazardous waste" and so must not be discarded as regular trash. (Dry cell and alkaline batteries used in flashlights, toys, and appliances are no longer considered hazardous waste, so these batteries are safe to dispose of in your household trash.)

For more detail about how to recycle household materials, see www.montgomerycountymd.gov/apps/dep/solidwaste/collectionservices. —A tip from GP Climate Action Now.

Green Again

Leslie Loker and hubby Jim Wilson of Kenilworth gave us money last February for the greening of our banner. Jim grew up on Kenilworth and has kept up with the doings of our town. Many thanks. —Mary Moyer

GP Seniors Get Organized!

On December 4, a group of six long-time residents of Garrett Park, now senior citizens, met to discuss issues related to "Aging in Place." This is the concept of seniors remaining in their homes and living independently through their elder years rather than moving to retirement, independent living, or assisted living residences.

Bonnie Tyler, Florence Gootenberg, Ruth and Marvin Trattner, Ulla Lustig, Anne Ackley, and Rita Pittillo (in absentia) raised concerns about health, safety, and comfort for seniors living on their own but who might need assistance in a variety of ways from simple to more extensive home repairs, transportation, yard work, etc. We also spoke about how seniors from Garrett Park, especially those restricted by transportation or ambulatory challenges, could enjoy cultural activ-

GIVES Collection Coming Up

As the economy weakens and the chill of winter sets in, many charitable organizations such as the Dinner Program for Homeless Women (DPHW) are seeing a sharp rise in numbers of families and individuals who may have lost their homes and are looking for a place to get warm and a meal. The need for services is rising just as corporate sponsorships and food donations are dropping.

Cash contributions to GIVES, Garrett Park's own nonprofit, have also recently declined. Please help us support two worthwhile organizations, the American Friends Service Committee and DPHW, by marking our next collection date, Saturday, February 7, on your calendar and bringing a generous check or cash donation to the Post Office that day between 9 am and 1 pm. One hundred percent of your donation is tax-deductible; this is one very efficient organization, manned by volunteers.

If it is more convenient, there are envelopes in a tin box by the book shelf in the Post Office, and you can mail in your check.

ities such as concerts at Strathmore Hall or trips to galleries or museums downtown.

This steering committee wants *your* input and would like to schedule a meeting at Town Hall to further discuss these issues and put some plans into action. What knowledge, suggestions, or questions can you bring for us all to talk about over coffee and cake? How can we make remaining in our homes in Garrett Park during our later years as safe and enjoyable as it has always been? What are your needs and wishes?

Please complete this brief questionnaire by February 1 and mail it (P.O. Box 84), bring it to the Town Office (third floor, Penn Place), or drop it in the box provided in the post office. Responses from all residents are welcome!

The GP Senior Citizens Steering Committee

Name: _____ P.O. box _____ Telephone no. () _____

Would you be willing to be a buddy in a telephone tree as a way to check in daily (briefly) with your senior neighbors? ☐ Yes ☐ No

Would you be willing to
(a) be a driver for medical appointments, errands, or grocery shopping? ☐ Yes ☐ No
(b) drive to and/or from a social event in the evening? ☐ Yes ☐ No
(c) do grocery shopping? ☐ Yes ☐ No

Would you come to a meeting to help determine other concerns, needs, and wishes for seniors in Garrett Park? ☐ Yes ☐ No

If you can recommend from personal experience any of the following, please provide contact information.

Handyman _____
Yard worker _____
Caregiver _____
Homecare Registered Nurse
or Licensed Practical Nurse _____

Bugle Notes . . . Sweet and Sour

- ♪ The P. O. wishes everyone a prosperous and Happy New Year, and thanks everyone for all the gifts and good wishes (and yellow cards). They were really appreciated. Remember to have your correspondents use your PO box number, or your mail could be returned to sender.
- ♪ From Millie Mader comes the following: A note of thanks to all friends and neighbors who helped me after a recent fall on the floor in my home. *No fun*—I don't recommend it! But you are an A-1 community in my book.
- ♪ At a recent holiday party, some who have made the effort to grow their own food were full of stories of predator squirrels and raccoons with exceptionally fine motor skills and ravenous appetites. The tale of a huge porcupine enthralled all in attendance. Evidently deer fences don't ensure tomato harvests!
- ♪ Chris Moyer graduated from the University of Maryland on December 21 with a BA in Criminal Justice. Now comes the job search!
- ♪ As you can see, we are running thin on town tidbits. If you know someone who has gotten an award, had an adventure, been laid up with an illness or injury, or had an addition to the family or house, share your news with the town! Give Mary Moyer a call.

Seferlis Lecture on Sculpture

The Washington area is rich in interesting things to see, some well known and some obscure. Garrett Park is rich in people with interesting professions and skills. These two happy facts come together on Wednesday, February 11, when our own Andy Seferlis presents an illustrated lecture on the outdoor sculpture of Washington. The lecture is based on a book by James M. Goode that was originally published in 1974—the first of several influential books on the built environment of the Washington area by Mr. Goode. Andy has been working as the researcher and photographer for Mr. Goode to produce an expanded and revised version of *The Outdoor Sculpture of Washington*. The new book is just off the presses, and Andy has been kind enough to offer to speak on the topic. Andy is a trained architectural historian and tour guide, in addition to continuing his father's sculpture business. He shares his talents with the town as a member of the Garrett Park Historic Preservation Committee.

Please join us at the Town Hall at 8 pm on February 11. Andy will have discounted copies of the book available for purchase, as well as postcards and prints of some of his photographs. The lecture is sponsored by the Garrett Park Women's Club and the Garrett Park Historic Preservation Committee.

Scouting for Books

The Cub Scouts of Pack 521 are collecting used books for the World Bank's *Book Project*. They will be dropping off book requests on January 31 and picking up donations on February 7. The books are shipped by the World Bank to schools and libraries in developing countries around the world. Since starting collections in the fall of 2007, our scouts have collected over 4000 books, which have been shipped to Ethiopia, Somalia, and Ghana. The Book Project's needs are for materials suitable for schoolchildren ages 4 to 18, as well as teacher materials. There is a box for dropoffs in the Post Office. Clean off a bookshelf! For information about the *Book Project*, see go.worldbank.org/AJY6WOWPX0. To learn more about Pack 521, please visit our web site, www.pack521.com.

Town History Presentation

On Sunday, February 8, from 3 to 5 pm, a program based on materials from the Garrett Park Town Archives will use letters, business documents, a one-act play, oral histories, and the 1974 *Garrett Park, A History of the Town from its Beginnings to 1970* to explore the Great Depression from a local perspective. Be prepared to consider donating volunteer energy and money to support the Town Archives. For information, call Marian Green.

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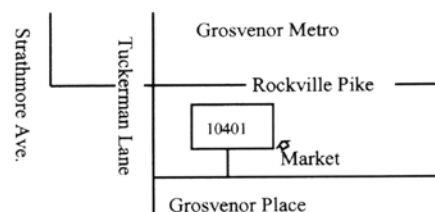


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Yes, GP CAN!

Things are going to get a lot hotter around here, and we are not talking lawsuits or local politics. Garrett Park's Climate Action Network (GP CAN) held its first meeting of the year on January 7. The group brainstormed a number of cool projects and programs designed to inform and motivate citizens to take concrete steps to mitigate climate change:

- Buy clean energy by signing up for wind-generated electricity.
- Steal good ideas from your neighbors: an upcoming Garrett Park tour of energy efficiency projects, sustainability projects and green lifestyles. Look for more information coming out around Earth Day!
- Recycle more than paper and plastic—learn how to deal with scrap metal and more!
- Find out how to “eat local” and how that action helps the planet.

The committee welcomes all who want to share their expertise, volunteer, or who just want to learn more about the issue. To stay abreast of upcoming activities and events, *Bugle* readers are invited to join the GP CAN listserv by contacting Jennifer Sass.

Valentine's Day Film

Take your Valentine to dinner and a movie at the Town Hall on February 13 when the Garrett Park Film Society (GPFS) presents *Sweet Land*, a film about love, family, and the importance of standing together as a community. Foremost, it's the love story of Olaf and Inge. Inge, a mail-order bride, arrives in Minnesota in 1920 and is met with suspicion by the Norwegian community because she is German. Unable to marry, Inge goes to live with Olaf's friends and neighbors, where she learns the language, American ways, and discovers her own strength and independence. It is also about the ethos of farming and the fine line between making it and foreclosure.

Sweet Land, winner of 6 independent film awards, is based on Will Weaver's short story “A Gravestone Made of Wheat” and is shot on location in Southern Minnesota. Through its visually stunning images, the film captures the deep-rooted love for the land and way of life of many of our immigrant ancestors.

Drinks will be served at 7 pm, dinner at 7:15 pm. The film will start at 8 pm. Admission to the film is free to GPFS members. Nonmembers pay \$5 per person or \$10 per family. (Membership forms will be available at the door.) Cost of dinner is \$10 or less; drinks range from \$1 to \$4.

Letters to the Editor

Honest citizen and honorable grocer

One late busy holiday evening in December, I was shopping at Grosvenor Market. In my rush to complete my shopping, I left my wallet at the register. I called Scott, the owner of Grosvenor Market, after discovering that my wallet was missing. Scott said that he had retrieved the wallet and placed it in the safe. When I offered to pay a reward, he emphatically said, “Absolutely not! This is the way things should be.” Scott's remark reminded me that not many people would have done this. It may be as it should be, but in my experience it is not how it is.

Geri Hansen

Land swap possibility

The town of Garrett Park continues to await a written proposal from the Montgomery County Department of Parks regarding a possible land swap—the exchange of the land associated with the Community Center building and playground (3/4 of an acre) for the parcel of land between Waverly Park and Penn Place (1/4 of an acre). In last month's *Bugle*, Mary Moyer referred the possible land swap and reported discussions about the possible ramifications of a change in the designation of Waverly Park—from a neighborhood park to a local park.

I recently raised the issue of whether the Department of Parks intends to reclassify Waverly Park before or after the proposed land swap with John Hench, Chief of the Park Planning and Stewardship Division. I received his assurance that the proposal his division is putting together will

exactly reflect the parameters discussed at the November 4 meeting of representatives of the Department of Parks, the town of Garrett Park, and the Garrett Park Nursery School. Moreover, he stated that (1) no changes will be made to the designation of Waverly Park as a neighborhood park; and (2) no amenities (such as fields, picnic shelters, etc.) would be added that would require permitting.

I am eager to carefully review the actual proposal from the Department of Parks to the town—when it arrives. I am confident that a fair deal can be reached, but please know that the Nursery School will not support any proposal unless the interests of the town are properly protected.

Tara M. Flynn, Co-Chair,
GPNS Save Our School Task Force

Speaking out on lawsuit

As you may know, we have been involved in a lawsuit against the town for almost a year relating to the construction of a front porch on our home. During the course of that litigation there has been much information published about our case. Until now we have remained largely silent in the face of these statements, many of which have questioned our personal motivations, the rectitude of our legal position, and most distressingly, our character and integrity.

At long last we have obtained a decision from the Montgomery County Circuit Court. Accordingly, we believe it would now be appropriate for us

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to comment on the suit. It is our hope that by doing so we can clear up any misunderstandings that have been created during this process and that we may bring this matter to a conclusion once and for all in a way that benefits everyone.

On January 9, a Montgomery County Circuit Court judge ruled in favor of us. The judge ruled that the town acted illegally when it denied our building permit for a new front porch on our Clermont Avenue home. The town’s denial was based upon a so-called “minimum combined setback” provision in the town Code, which limits to 18 percent the amount of a lot that may be covered by construction. We argued, and the judge agreed, that while the provision was expressed as a “setback” law, it was in reality a “lot coverage” law. In deciding the case in favor of us, the judge relied upon clear and statutory authority. At the time the town adopted the provision, the town lacked legal authority under state law to regulate “lot coverage.”

The judge’s ruling effectively ends the lawsuit without the need for the Court to decide some other issues raised by the suit, such as whether the entire town building code was improperly adopted and is therefore unenforceable. Unless the town appeals the judge’s decision, these issues will never be reached.

The judge’s ruling came after six hearings before the court. This was the second judge to hear the case. The town successfully delayed a decision in the case twice—and had attempted (without success) to delay the case once more this past December 30 based on Mr. Podolsky’s vacation schedule. In yet another attempt at delay, at the end of the hearing on January 9, town attorney Louis Leibowitz made a verbal “motion” to “stay” the judge’s decision in order to appeal the case to a higher court.

It has been reported that the town’s legal fees in this case have cost nearly \$140,000 to date. The town has repeatedly amended its budget to pay for these legal fees. It is well past the time for the town to stop wasting taxpayer money to defend a bad decision not to settle this case before it even started, as we twice offered to do. We have been consistent since our first written settlement offer in February 2008 that we would dismiss our lawsuit as soon as the town issued our building permit. As the Court’s decision makes clear, our position in this suit is anything but “meritless,” as the town attorney reportedly advised the Town Council at the beginning of this case. It is time for the Mayor and the Town Council to make the responsible choice to issue us a town building permit for our front porch and then work with the community toward the development of a lot coverage law that will pass legal muster.

Elaine Martin and John Martin

Grant porch permit

In the January *Bugle*, former Mayor Peter Benjamin wrote that he knows our family “quite well”—he only knows us by our names and where we live.

Mr. Benjamin should know that the success of the petition for referendum was the work of many town residents. This petition was signed by 244 residents who were interested in having adequate pub-

lic discussion in order to understand this ordinance, which affects all properties.

Mr. Benjamin thinks that John and Elaine Martin’s porch “is a good idea and would add to the visual quality of the Martin family house.” Since the judge has now ruled in favor of the Martins, I hope that Mr. Benjamin will persuade the town to do the right thing and grant the Martins’ porch permit.

Rose Masucci

More support for porch permit

Peter Benjamin’s letter in the January *Bugle* makes many points with which I disagree. Contrary to his letter, the Martins’ lawsuit is about a porch, and they have been ready to settle.

Mr. Benjamin indicated the possibility of legislation to accommodate the porch that the town believed it needed to grant the permit. The town never introduced, much less adopted, this legislation. To my knowledge, Mr. Benjamin did not bring any settlement offer from the town to the Martins.

Of course, the Martins have contended that they were entitled to their permit under the town’s code and that the town had the authority to grant such a permit without the need for additional legislation.

Now the Montgomery Circuit Court has ruled that the town “had no legal authority to deny the building permit based upon lot coverage or minimum setback provision” and that such provision is illegal. In view of this decision, the town’s basis for denial of the permit is removed. The town should now realize that there is no need for any legislation to grant the Martins’ permit. Hopefully, the town will forgo any appeal and grant the permit forthwith, avoiding additional expense and division.

As demonstrated by Elaine Martin’s public settlement offer at the January 12 council meeting, it is all about a porch, at least for the Martins.

Cynthia Kratz

Observations on upcoming referendum

First, I offer my thanks to Richard Folkers for the timely presentations on his web site. For example, he provided the first public news report of the judge’s decision regarding the Martins’ lawsuit against the town. I only wish that the town government would provide such news on an equally timely basis.

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Second, as Garrett Park residents now know, the court has ruled in favor of the Martins and against the town. Namely, the court has struck down Garrett Park's 1992 open space ordinance, finding that it exceeded the town's zoning authority at that time. Yet, the court stayed its decision for a month, permitting the town the opportunity to appeal. In addition, the referendum on the revised open space ordinance—the purpose of which is to replicate the 1992 ordinance while overcoming its legal deficiencies—will not be held for a month or more, allowing the Citizens Association time to vet the pros and cons.

The Council now needs to decide whether to appeal the judge's decision. If the Council chooses not to appeal, Garrett Park will no longer have an operative open space ordinance as of February 5; rather, Montgomery County standards as they apply to Garrett Park will supplant the town's 1992 ordinance. What is the difference between Montgomery County standard and Garrett Park's? The county's standard is more permissive—it would allow 10 percent larger houses (or lot coverage), compared with the town's ordinance. (On an average 10,000 square foot lot, Garrett Park's ordinance permits a house footprint of 1,800 square feet while the county permits a footprint of 2,000 square feet—an increase of 200 square feet, more than a 10-percent increase.)

Finally, should the Council not appeal, the core issue for the referendum is what the town's placeholder position should be until such time as the town conducts a complete re-evaluation of its land use laws through the work of the Land Use Task Force, which is only now getting underway and which will likely take a year or more to complete. There are only two plausible short-term options: (1) Montgomery County's standard or (2) the town's standard of the past 17 years. If you vote against the Town Council's proposed ordinance, option 1 will be the result. If you vote for the proposed ordinance, option 2 will be the result. While I personally prefer option 2 because it maintains the status quo while the town sorts out the issues, these are the choices that need to be debated at the upcoming Citizens Association meetings.

Ken Schwartz

Support new lot occupancy ordinance

Sometime in the next few months, Garrett Parkers will go to the polls, not for an election, but for a referendum over zoning. At issue is a new ordinance, passed last fall, which specifies how much of your lot the main house is allowed to cover. The intent of the ordinance is to preserve open space. Of course, as anyone who has been paying even a little attention knows, this seemingly minor change has led to many an argument around town—and some particularly contentious ones in Town Hall.

So, for the sake of *this* argument, let's assume the worst and make several outrageous assumptions. First, let's assume that pretty much everyone who serves on the Town Council or is elected Mayor of Garrett Park eventually becomes duplicitous and power hungry. Second, we'll take as truth that back in 1992, a bunch of duplicitous, power-hungry townspeople plied their evil trade, in order to get

the minimum combined setback ordinance passed, against the true will of the people (even though that provision was taken to, and passed, a referendum). Finally, let's assume that today's batch of municipal miscreants is even dirtier than its forbears.

Even if those things were true, and even if you couldn't force yourself to attend a Town Council meeting without holding your nose, there is still no legitimate reason to oppose Garrett Park's new lot occupancy ordinance, because the measure amounts to nothing more than common sense.

The ordinance, which you can vote to ratify or reject, is simply a change of language to the 1992 town ordinance, in order to align our town's code with what is permissible under current state law. The new ordinance makes clear just how big the footprint of your house can be. The town's current minimum combined setback specifies how much of your lot has to be open space. One is the inverse of the other. It's that simple. Under the new ordinance, how you apply for a building permit would not change, nor would the calculations to determine acceptance or rejection. You would still have the option of requesting a variance. As a practical matter, nothing would change.

Nor will voting in favor of the lot occupancy ordinance automatically invalidate *Martin v. Garrett Park*. On January 9, the judge in the case ruled that the minimum combined setback was illegal. The town now has 30 days to decide whether to appeal her decision, and it might well file an appeal, if only to preserve the *status quo* until the referendum is conducted. In the mean time, the judge has told the Martins they may not build their porch. Passage of the lot occupancy ordinance won't change any of that. Furthermore, whether the ordinance passes or goes down, it's pretty likely, given the state of play, that the Martins will get their porch in due course. So maybe it's time to put that part of the discussion to rest. We have much more important things to consider, as a community.

There is certainly a sentiment held by some in the town that we should not have our own zoning rules, that the town should go solely by the zoning regulations of Montgomery County for Garrett Park. A vote against the lot coverage ordinance would be a pretty clear sign the town wants to go that direction.

But for a small, historic town that prides itself on open space, I think such a move would be a gross error. Upholding the lot coverage ordinance retains town control over zoning, settles some outstanding legal issues, and lets the town move forward with a thorough discussion about land use.

The choice is actually pretty simple. We can fight the volunteer elected officials we all love to hate, or we can roll up our sleeves and take part in deliberations about the future direction of our town. Wouldn't it be great if we all helped out? Maybe then each of us could become duplicitous and power hungry, and we'd all be equal.

Richard Folkers

Land use referendum

Garrett Park residents will soon be asked to vote on a land use ordinance that was passed by the Town Council in October and called to referendum

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in November. The ordinance is designed to replace the town's combined setback ordinance that was passed in 1992. The 1992 ordinance required that, through a combination of setbacks, 82 percent of a lot must remain open space. The new ordinance, passed under authority granted by the state in 2006, states the inverse of the same requirement: 18 percent of the lot may be covered by the main building. The two ordinances say the same thing in different ways.

The 1992 law has served the town well over the last 17 years. Because it is stricter than the County Overlay Zone, it has helped to preserve more of the open, green space that is one of the town's most prized characteristics. It has promoted a more harmonious relationship between adjacent homes and helped to maintain the prominence of our historic street plan. It has reduced the pressure to demolish some of our smaller houses, helping to maintain a variety of architectural types and sizes and allowing more visual and economic diversity. It has protected the town from the "mansionization" that has occurred in other neighborhoods. It has been an important tool in preserving our town's unique historic qualities without extra layers of outside review and without legislating aesthetics.

As a result of the recent lawsuit against the town, the 1992 ordinance was struck down by a judge who concluded that the town exceeded its authority in passing it. The revised ordinance, which has been called to referendum, and on which

the town will soon vote, was passed to replace the 1992 law and maintain the status quo. It overcomes the legal problems associated with the prior ordinance. The Town Council has promised a thorough review of all town land use laws and procedures. At the last Council meeting, it appointed a Land Use Task Force, chaired by Gene Brantly, and charged it with beginning this task. At the end of this process, the town may decide to keep an 18 percent lot occupancy requirement, modify it, or get rid of it and rely solely on the 20 percent lot occupancy requirements of the county-administered Garrett Park Overlay Zone. Whatever the conclusions, they will be arrived at through a careful deliberative process with opportunity for public input.

The Historic Preservation Committee urges residents to vote in favor of the ordinance passed by the Council in October setting lot coverage at 18 percent. It will continue the policies that have been in place since 1992 until we as a town have an opportunity to thoroughly examine other alternatives. Voting down the ordinance will leave the town without any local control over this core element of land use and will permit houses that are 11 percent larger than those that have been built in recent years. This is a change the town may eventually want to make, but it should be made by Garrett Park residents themselves, and in the context of a thorough and thoughtful review by the Land Use Task Force.

Members of the Historic Preservation Committee: Perry Chapman, Marian Green, Kevin Pope, Nancy Schwartz, and Andy Seferlis

Letter from the Mayor

At its January meeting the Town Council appointed the Land Use Task Force and charged the group with examining a wide range of land use issues in Garrett Park. The Council asked the Task Force, chaired by Gene Brantly, to report back with recommendations. The work of the Task Force will be important in identifying the kind of town we want to leave for future generations. Its work has special significance in view of another recent development.

On January 9, the Circuit Court in Rockville delivered an opinion in *Martin v. Garrett Park* that was adverse to the town. Judge McCormick found that the town's 1992 law requiring 82-percent open space on a residential lot was in effect a lot coverage law, enacted at a time when the town did not have authority to regulate lot coverage. In 2006 the state granted municipalities, including Garrett Park, the authority to regulate lot coverage. Last October the Town Council, acting under the new authority, passed an ordinance setting lot coverage for main buildings in Garrett Park at 18 percent. That ordinance was petitioned to referendum, which means that it will not take effect until a majority of Garrett Park voters approve it in a townwide vote. The referendum date has not been set, but by choosing to adopt or reject the ordinance, your vote will register your view of the desirability of Garrett Park maintaining control of its land use policies. Why is that? If the Judge's January 9 decision takes effect (it is currently stayed), and Garrett Park does not have its

own law in place, decisions about lot area coverage will devolve to the county, which sets a different standard in the Montgomery County Overlay Zone for Garrett Park.

The point is not so much the exact percentage of lot area coverage for a main house in Garrett Park—that is an important issue that the Land Use Task Force will address. Although the Task Force's work will take time, it will still be far swifter and more responsive to particular Garrett Park concerns than the county. And therein lies the crucial issue: whether we retain control over these decisions in Garrett Park, with our own residents having a say in the process. I hope you will consider carefully Garrett Park's long history of guiding its own destiny—from Ordinance no. 1 regulating public health, through blocking town-controlled streets to through traffic, acquiring Porcupine Woods to prevent a townhouse development, and even the 1992 effort to preserve open space. Yes, notwithstanding the adverse court decision, I hope we all recognize that the 1992 law was a good-faith effort by our then-elected representatives to reflect the desires of the town, using the methods available to them at the time. We should continue to decide our own future by upholding the Council's new October lot coverage law (for which the town has clear authority from the state), and then working to modify it in whatever ways that we, as a town, view to be in Garrett Park's best interest going forward.

Chris Keller